



# CITY OF MEMPHIS

## COUNCIL AGENDA

March 4, 2008

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

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**CALL TO ORDER by the Sergeant-at-Arms**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**CALL OF ROLL by the Comptroller**

**APPROVAL OF PREVIOUS MEETING MINUTES (February 19, 2008)**

**ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING**

**ITEMS HELD OR DROPPED FROM THE AGENDA**

## **CONSENT AGENDA**

### **GENERAL ORDINANCES - FIRST READING**

1. **ORDINANCE** to amend Cable Franchise Ordinance No. 4159, Granting AOL Time Warner, Inc., an extension of its Franchise Ordinance through December 16, 2008, up for F I R S T reading.

Morrison

Ordinance No. 5255

ACTION REQUESTED: Adopt the ordinance on First reading

2. **ORDINANCE** amending Substitute Ordinance No. 5046 to expand the definition of emergency in order to permit MLGW to promptly respond to safety and regulatory compliance issues and to enter into time sensitive natural gas purchases and derivative instruments, up for F I R S T reading.

Ware

Ordinance No. 5256

ACTION REQUESTED: Adopt the ordinance on First reading

### **GENERAL ORDINANCE - SECOND READING**

3. **ORDINANCE** repealing Ordinance No. 4013 regulating Sexually Oriented Businesses and adopting Adult-Oriented Establishment Registration Ordinance, up for S E C O N D reading. (Held from 12/4/07)

Lowery

Ordinance No. 5250

ACTION REQUESTED: Adopt the ordinance on Second reading

**ZONING ORDINANCE - FIRST READING**

4. **ORDINANCE** amending the Zoning Text Amendment on Nonconforming Uses, up for F I R S T reading. (Held from 11/6/07)

Lowery

Ordinance No. 5242  
Case No. ZTA 07-002cc

Applicant: Office of Planning & Development

Request: Amend Section (B) (6) 16-116-2(F) to specify that cessation of use date to loss of license or permit for 365 consecutive days terminates a nonconforming use

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on First reading

**ZONING ORDINANCES - SECOND READING**

5. **ORDINANCE** rezoning the north side of Stateline Road; +/-125 feet east of Bridge Mill Lane, containing 5.83 acres in the Agriculture (AG) District, up for S E C O N D reading.

Lowery

Ordinance No. 5253  
Case No. Z 07-120cc

Applicant: Carolyn Gowan and Keith & Jacqueline Carter  
Boyston Construction Consultants - Representative

Request: Single Family Residential (R-S10) District

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Adopt the ordinance on Second reading

6. **ORDINANCE** rezoning the west side of South Willett Street, 75 – 135 ft. north of Monroe Avenue, containing 6,725 sq. ft. (0.154 acre) in the Multi-Family Residential (R-MH) District, up for S E C O N D reading.

Lowery

Ordinance No. 5254  
Case No. Z 07-121

Applicant: Mad Will Properties, LLC  
Cindy Reaves, SR Consulting, LLC – Representative

Request: Parking (P) District

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Adopt the ordinance on Second reading

**ENGINEERING**

7. RESOLUTION accepting PEARCE'S COVINGTON PIKE C-P, PHASE 1 and authorizing release of bond.

Case No. Z 88-117  
(Contract No. CR-4110)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the east side of Covington Pike, 841 feet north of McCrory Road. The standard improvement contract was approved on March 2, 1999. Resolution also authorizes the release of the letter of credit in the amount of \$108,300.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

8. RESOLUTION accepting KELLOGG DRAINAGE RELOCATION and authorizing release of bond.

(Contract No. CR-3890)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located west of Airways Blvd., north of Kellogg Ave. The standard improvement contract was approved on November 22, 1994. Resolution also authorizes the release of the performance bond in the amount of \$109,100.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

**NOTATIONS FROM OPD**

9. NOTATIONS from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

A. Case No. PD 07-346 – Chelsea Avenue Landscaping P.D.

Located on the southeast side of Chelsea Avenue; +/-240.70 feet east of Ozan Street, containing 1.70 acres in the Single Family Residential (R-S6) District

Applicant: B.P.L. Landscaping, Inc.  
Shroyer Engineering Company – Representative

Request: Planned development to continue and expand a Landscaping Nursery

LUCB and OPD recommendation: APPROVAL, with conditions

B. Case No. PD 08-304

RBM

Located on the northwest corner of Haver Hill Road and Cherry Road, containing 25.5 acres in an area regulated by the approved conditions for P.D 99-366 – Cherry Road Partners

Applicant: RBM Cherry Road Partners  
Ronald Harkavy – Representative

Request: Amend the planned development to transfer 1.3 acres of land from Lot 2 to Lot 1 and add surface parking between the existing building in Lot 1 and Cherry Road

LUCB and OPD recommendation: APPROVAL, with conditions

**ACTION REQUESTED: Set a date of public hearing**

**SUGGESTED DATE: March 18, 2008**



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### MLGW FISCAL CONSENT

10. RESOLUTION approving Change No. 1 to Contract No. 11217, Temporary Services, with Manpower, Inc. in an estimated funded amount of \$230,000.00. (This renews the contract for the second term, January 1, 2008 through December 31, 2008, with no increase in rates, to provide short-term temporary assignments of identified skills for clerical positions.) (Held from 2/5; 2/19)
11. RESOLUTION approving Change No. 1 to Contract No. 11220, Temporary Services, with Kelly Services, Inc. in an estimated funded amount of \$595,000.00. (This renews the contract for the second term, January 1, 2008 through December 31, 2008, with no increase in rates, to provide short-term temporary assignments of identified skills for general laborer positions.) (Held from 2/5; 2/19)
12. RESOLUTION approving a new rate schedule for the law firm of Miller, Balis & O'Neil, P.C. effective January 1, 2008. (Held from 2/5; 2/19)
13. RESOLUTION employing the law firm of Bass, Berry & Sims on an as-needed basis at agreed upon hourly rates, retroactive to January 1, 2005. (Held from 2/19)
14. RESOLUTION awarding Contract No. 11251, Concrete Vault Installation, to Barnes & Brower in the funded amount of \$188,643.00.
15. RESOLUTION approving Change No. 2 to Contract No. 11078, Professional Claims Adjusting Services, with Horton & Associates in the funded amount of \$160,000.00. (This renews the contract for the second term, March 31, 2008 to March 30, 2009.)
16. RESOLUTION awarding contract for eight pullers/tensioners to Wagner-Smith Equipment in the amount of \$615,600.00.
17. RESOLUTION amending contract for cab and chassis vehicles with Mid-America International Trucks, Inc. to reflect name change to Diamond International of Memphis, Inc., and approving exercise of option to renew the contract for an additional 12-month period, in the amount of \$1,346,715.00.
18. RESOLUTION approving six-month extension of Purchase Order No. 124065 with Xerox for rental of Docucolor 6060 copier system in the amount of \$77,731.92, for a total approved amount of \$527,854.63.

19. RESOLUTION approving a new rate schedule for the law firm of Weintraub, Stock & Grisham, P.C.



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## REGULAR AGENDA

20.  
Flinn

### APPOINTMENTS

#### Memphis Area Transit Authority

##### Reappointment

Karl Birkholz

#### Memphis City Beautiful Commission

##### Appointment

Penny Aviotti, APR

### GENERAL ORDINANCE – THIRD AND FINAL READING (None)

#### ENGINEERING DIVISION (None)

#### EXECUTIVE DIVISION (None)

### FINANCE & ADMINISTRATION

21. INITIAL RESOLUTION authorizing the issuance of General Obligation Bonds of the City of Memphis, Tennessee for the purpose of financing the cost of Public Works Projects in the city.

Halbert

ACTION REQUESTED: Adopt the resolution

22. RESOLUTION authorizing and providing for the issuance and sale of commercial paper of the City of Memphis, Tennessee and providing for certain other matters related

thereto.  
Halbert

ACTION REQUESTED: Adopt the resolution

23. RESOLUTION amending the FY 2008 Operating Budget to reflect expenditure shifts and reprioritization of spending by transferring and appropriating funds between legal levels in General Fund, Debt Service Fund and Special Revenue Fund.

Halbert

ACTION REQUESTED: Adopt the resolution

**DIVISION OF FIRE SERVICES** (None)

**DIVISION OF GENERAL SERVICES**

24. RESOLUTION appropriating \$100,000.00 in GS01017, Automated Fuel System to upgrade Police Precincts to allow radio frequency fueling.

Morrison

ACTION REQUESTED: Adopt the resolution

**DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT** (None)

**DIVISION OF HUMAN RESOURCES** (None)

**LAW DIVISION** (None)

**MLGW DIVISION** (None)

**PARK SERVICES**

25. RESOLUTION requesting City Council approval of the agreement between the City of Memphis, Tennessee through its Division of Park Services and the Riverside Park Marina, Inc., for the lease of .93 acre adjacent to the east shoreline of McKellar Lake to operate a marina. The initial term of the agreement is to be eight (8) years.

Strickland

ACTION REQUESTED: Adopt the resolution

**DIVISION OF POLICE SERVICES**

26. RESOLUTION accepting grant funds in the amount of \$592,143.50 from the Bureau of Justice Assistance through Shelby County Government to implement the 2007 Justice Assistance Grant to prevent and control crime. Resolution also amends the FY 2008 Operating Budget to establish and appropriate grant funds.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

27. RESOLUTION accepting grant funds in the amount of \$184,900.00 from the State of Tennessee Department of Military – Tennessee Emergency Management Agency FY 06 Buffer Zone Protection Program (BZPP) Grant Program to support the implementation of Buffer Zone Plans (BZPs) outside the perimeter of identified critical infrastructure/key resource sites.



These plans are intended to develop effective preventive and protective measures that make it more difficult for terrorists to conduct surveillance or launch attacks within the immediate vicinity of high priority critical infrastructure targets. Resolution also amends the FY 2008 Operating Budget to establish and appropriate grant funds.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

**DIVISION OF PUBLIC SERVICES**

28. RESOLUTION accepting grant funds in the amount of \$42,660.00 from the Tennessee Coalition Against Domestic and Sexual Violence Court Advocate Program to provide court advocacy and support services to victims of sexual and domestic violence, as well as stalking for the purpose of easing the impact of victimization and assistance in navigation of the criminal and civil legal systems. The resolution also amends the FY 2008 Operating Budget to establish and appropriate grant funds.

Brown

ACTION REQUESTED: Adopt the resolution

**DIVISION OF PUBLIC WORKS**

29. RESOLUTION appropriating \$298,395.00 funded by G.O. Bonds General for Cincinnati Bridge over IC/NC Railroad, Project Number PW02021, for a construction contract with Chris Hill Construction for bridge repairs.

Morrison

ACTION REQUESTED: Adopt the resolution

**ZONING ORDINANCE – THIRD AND FINAL READING**

30. **ORDINANCE** rezoning the southwest corner of New Allen Road and Hawkins Mill Road, containing 198.4 acres in the Single Family Residential (R-S6) & Multiple Dwelling Residential (R-ML) District, up for T H I R D and F I N A L reading.

Lowery

Ordinance No. 5252  
Case No. Z 07-119

Applicant: Belz Investco GP, c/o Ron Belz  
Nathan Bicks – Representative

Request: Light Industrial (I-L) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

**98 NOTICES MAILED ON FEBRUARY 22, 2008**

**DIVISION OF PLANNING & DEVELOPMENT**

31. RESOLUTION approving a use variance located on the south side of Fields Road; +/-218.64 feet west of Osceola Road, containing 1.26 acres. (Held from 2/19)  
Lowery Case No. UV 07-13

Applicant: Robert L. Hale  
Self –Tucker Architects – Representative

Request: Use variation to allow motor vehicle service

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

**No Opposition at LUCB; No Public Hearing Required**

32. RESOLUTION approving a use variance located on the northside of Raines Road between Barton Drive and Charles Drive, containing 0.833 acre in the Single Family Residential (R-S10) District.  
Lowery Case No. UV 07-05cc

Applicant: Robert Landshof and Brenda Daniel

Request: Use variation for use of an existing building as a furniture storage warehouse

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

**No Opposition at LUCB; No Public Hearing Required**

33. RESOLUTION establishing a moratorium on the issuance of adult-oriented business and compensated dance permits by the Memphis and Shelby County Office of Planning and Development and the Alcohol Commission and Permits Office, until September 5, 2008.  
Lowery

ACTION REQUESTED: Adopt the resolution

34. RESOLUTION extending a moratorium on the issuance of billboard construction permits by the Memphis and Shelby County Office of Code Enforcement, until September 30, 2008, or until an amended ordinance regarding billboard construction can be adopted.  
Lowery

ACTION REQUESTED: Adopt the resolution

35. RESOLUTION approving a hotel waiver for the Days Hotel Airport located at 2979 Millbranch Road.

Lowery

ACTION REQUESTED: Adopt the resolution

**PUBLIC HEARING**

36. RESOLUTION approving a planned development located on the southwest corner of Dunlap Street and Galloway Avenue; southwest corner of Dunlap Street and Lane Avenue, containing 9.121 acres in the Light Industrial (I-L) & Single Family Residential (R-S6) Districts.

Lowery

Case No. PD 07-341

Applicant: FPC Realty  
Charles Goforth, Barge, Waggoner, Sumner & Cannon, Inc. -  
Representative

Request: Expansion of an existing industrial use that includes the  
processing, storage and distribution of steel and other metal  
construction and fabrication products

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

**21 NOTICES MAILED ON FEBRUARY 22, 2008**

**GENERAL ITEMS**

37. RESOLUTION to change the Summer Youth Employment Program requirements for hiring specific age groups.

Morrison

ACTION REQUESTED: Adopt the resolution

38. RESOLUTION supporting the Operation Safe Community Legislative Agenda regarding punishment for crimes committed with three or more individuals as outlined in the Street Terrorism Bill and all other Crooks with Guns Bills.

Collins

ACTION REQUESTED: Adopt the resolution

39. RESOLUTION requesting City Administration to submit a Request for Qualifications from developers desiring to develop the Pyramid and Mud Island sites.

Flinn

ACTION REQUESTED: Adopt the resolution

40. RESOLUTION encouraging good faith negotiations during upcoming labor talks.  
Ford

ACTION REQUESTED: Adopt the resolution

**PRESENTATIONS AND RECOGNITION OF VISITORS**

41. RESOLUTION commending Out of the Box Urban Youth Development and the organization's founder and director, Mr. Richard T. Edwards.  
Brown

ACTION REQUESTED: Adopt the resolution

42. RESOLUTION commending Mr. Stevie Moore, founder of F.F.U.N. (Freedom From Unnecessary Negatives) for his work in the community.  
Collins

ACTION REQUESTED: Adopt the resolution

43. RESOLUTION honoring the Craigmont Middle School Basketball Team 07-08 for winning the 2008 State Championship.  
Morrison

ACTION REQUESTED: Adopt the resolution

**APPEARANCE CARDS FOR PUBLIC SPEAKING**

**ADJOURNMENT**

**ACTION TAKEN BY COUNCIL ON THIS DATE**

1. Through 8 – Approved
9. Public Hearing Set for March 18, 2008
10. Through 12 – Approved
13. Approved, as amended
14. Through 31 – Approved
32. Approved, as amended
33. Approved
34. Approved, as amended
35. Through 37 – Approved
38. Approved, as amended
39. Held until June 3, 2008
40. Through 43 - Approved

**ACTION TAKEN ON THE MINUTES OF FEBRUARY 19, 2008**

Approved

**ACTION TAKEN ON THE MINUTES OF ITEMS # 33, #34, & #37, from tonight's meeting**

Approved